



2016/0412(COD)

27.10.2017

AMENDMENTS

65 - 274

Draft report

Nathalie Griesbeck

Mutual recognition of freezing and confiscation orders

Proposal for a regulation

(COM(2016)0819 – C8-0002/2017 – 2016/0412(COD))

Amendment 65
Maria Grapini

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Freezing and confiscation of instrumentalities and proceeds of crime are among the most effective means of combatting crime. The European Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets²⁴.

²⁴ "The Stockholm programme – An open and secure Europe serving and protecting the citizens", OJ C 115, 4.5.2010, p.1.

Amendment

(3) Freezing and confiscation of instrumentalities and proceeds of crime are among the most effective means of combating crime, ***and may also have an impact on reducing and combating terrorism***. The European Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets²⁴.

²⁴ "The Stockholm programme – An open and secure Europe serving and protecting the citizens", OJ C 115, 4.5.2010, p.1.

Or. ro

Amendment 66
Monica Macovei

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) As crime is often transnational in nature, effective cross-border cooperation is essential in order to seize and confiscate the proceeds and instrumentalities of crime.

Amendment

(4) As crime is often transnational in nature, effective cross-border cooperation is essential in order to seize and confiscate the proceeds and instrumentalities of crime. ***Therefore, law enforcement bodies and authorities, persons, units or services within the Member States should closely cooperate and communicate in order to optimize duration and efficiency of freezing and confiscation procedures.***

Or. en

Amendment 67
Maria Grapini

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) As crime is often transnational in nature, effective cross-border cooperation is essential in order to seize and confiscate the proceeds and instrumentalities of crime.

Amendment

(4) As crime is often transnational in nature, effective cross-border cooperation, ***continuing exchange of information and reciprocal support*** is essential in order to ***detect***, seize and confiscate the proceeds and instrumentalities of crime.

Or. ro

Amendment 68
Monica Macovei

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition.

Amendment

(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition. ***Moreover, in some Member States key elements from the Directive 2014/42/EU (of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union) such as definitions or third party confiscation were completely ignored or very poorly addressed in the transposition draft laws.***

Amendment 69
Maria Grapini

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition.

Amendment

(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition ***and inefficient cross-border cooperation.***

Or. ro

Amendment 70
Barbara Spinelli

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Extended confiscation and third party confiscation must comply with the guarantees enshrined in the ECHR, in particular articles 6 and 7, and the Charter of Fundamental Rights of the European Union. The decision by competent authorities shall be based on a thorough assessment of the individual case of the person subjected to the confiscation order, including the certainty that goods confiscated were acquired or obtained through criminal activities;

Amendment 71
Gilles Lebreton, Nicolas Bay

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) When adopting Directive 2014/42/EU, the European Parliament and the Council stated that an effective system of freezing and confiscation in the European Union is inherently linked to well-functioning mutual recognition of freezing and confiscation orders. Considering the need *of putting* in place a *comprehensive* system for freezing and confiscation of proceeds and instrumentalities of crime, the European Parliament and the Council called on the Commission to present a legislative proposal on mutual recognition of freezing and confiscation orders.

Amendment

(8) When adopting Directive 2014/42/EU, the European Parliament and the Council stated that an effective system of freezing and confiscation in the European Union is inherently linked to well-functioning mutual recognition of freezing and confiscation orders. Considering the need *to put* in place a *European* system for freezing and confiscation of proceeds and instrumentalities of crime, the European Parliament and the Council called on the Commission to present a legislative proposal on mutual recognition of freezing and confiscation orders.

Or. fr

Amendment 72
Monica Macovei

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure effective mutual recognition of freezing and confiscation orders, the rules on recognition and execution of those orders should be established by a legally binding and directly applicable legal act of the Union.

Amendment

(11) In order to ensure effective mutual recognition of freezing and confiscation orders, the rules on recognition and execution of those orders should be established by a *Regulation, which is a* legally binding and directly applicable legal act of the Union. *This Regulation should lay down rules governing mutual recognition of freezing and confiscation*

orders pertaining to main types of confiscation existing in member States: ordinary confiscation, extended confiscation, third-party confiscation, value-based confiscation and non-conviction based confiscation.

Or. en

Amendment 73

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal *proceedings*.

Amendment

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of *a criminal action*. *The mutual recognition of freezing and confiscation procedures in criminal matters is intended to establish an effective mechanism for the cross-border recognition and enforcement of such judgments, this being one of the most effective means of combating crime. The effectiveness of such a mechanism should ensure the mutual recognition of freezing and confiscation procedures provided that they are ordered in connection with national court proceedings, which, without necessarily being criminal proceedings, meet the essential requirements thereof.*

Or. it

Amendment 74

Monica Macovei

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal proceedings.

Amendment

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal, *civil or administrative* proceedings.

Or. en

Amendment 75

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation should apply to all confiscation orders imposed by a court ***following proceedings in relation to a criminal offence*** and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued ***without final conviction*** within the framework of criminal ***proceedings***. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil ***or administrative*** proceedings.

Amendment

(13) This Regulation should apply to all confiscation orders imposed by a court ***and issued in connection with a criminal action*** and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of ***freezing and confiscation*** orders issued within the framework of a criminal ***action, including extended confiscation, third-party confiscation and non-conviction based confiscation orders***. ***Where such measures do not exist in the legal system of a Member State, the latter should be able to recognise and enforce the order issued in another Member State where it is imposed by a court with jurisdiction in criminal matters, and following procedures fully respecting the***

formal rights of respondents and defendants in criminal proceedings and property-related proceedings presumed - on the basis of facts - to arise from a criminal offence. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil proceedings.

Or. it

Amendment 76
Gilles Lebreton, Nicolas Bay

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, *as well as other types of orders issued without final conviction within the framework of criminal proceedings*. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative proceedings.

Amendment

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative proceedings.

Or. fr

Amendment 77
Monica Macovei

Proposal for a regulation
Recital 13

Text proposed by the Commission

Amendment

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal ***proceedings. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative proceedings.***

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal, ***civil or administrative*** offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal, civil or administrative ***proceedings.***

Or. en

Amendment 78
Barbara Spinelli

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Extended confiscation and third party confiscation must comply with the guarantees enshrined in the ECHR, in particular articles 6 and 7, and the Charter of Fundamental Rights of the European Union. The decision by competent authorities shall be based on a thorough assessment of the individual case of the person subjected to the confiscation order, including the certainty that goods confiscated were acquired or obtained through criminal activities.

Or. en

Amendment 79
Gilles Lebreton, Nicolas Bay

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, ***as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious crime with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual recognition of judgments in criminal matters.***

Amendment

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU.

Or. fr

Amendment 80

Eva Joly

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious crime with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual recognition of judgments in criminal matters.

Amendment

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious crime with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual recognition of judgments in criminal matters. ***Tax crimes for example constitute particularly important cross-border offences to include in the list of offences covered by this Regulation, but given that some countries do not punish them by a maximum of at least three years imprisonment, the threshold is being lowered to two years for these specific***

offences.

Or. en

Amendment 81
Monica Macovei

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious crime with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual recognition of judgments in criminal matters.

Amendment

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious crime with a cross-border dimension ***and should also cover tax-related crimes and cybercrime***, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual recognition of judgments in criminal matters.

Or. en

Amendment 82
Barbara Spinelli

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) This Regulation does not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the TEU.

Amendment

(16) This Regulation does not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the TEU ***and in the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’)***.

Amendment 83**Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo****Proposal for a regulation****Recital 18***Text proposed by the Commission*

(18) This Regulation should be applied taking into account Directives 2010/64/EU³⁰, 2012/13/EU³¹, 2013/48/EU³², 2016/343³³, 2016/800³⁴ and 2016/1919³⁵ of the European Parliament and of the Council, which concern procedural rights in criminal proceedings.

³⁰ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

³¹ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

³² Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of

Amendment

(18) This Regulation should be applied taking into account Directives 2010/64/EU³⁰, 2012/13/EU³¹, 2013/48/EU³², 2016/343³³, 2016/800³⁴ and 2016/1919³⁵ of the European Parliament and of the Council, which concern procedural rights in criminal proceedings. ***Directives on procedural rights in criminal proceedings apply only to criminal proceedings involving Member States that are bound by it. In addition, the basic rules of criminal procedure under the Charter apply to the conduct of proceedings that, while not strictly speaking criminal in nature, arise in connection with criminal proceedings.***

³⁰ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

³¹ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

³² Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of

liberty (OJ L 294, 6.11.2013, p. 1).

³³ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

³⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

³⁵ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p.1).

liberty (OJ L 294, 6.11.2013, p. 1).

³³ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

³⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

³⁵ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p.1).

Or. it

Amendment 84

Eva Joly

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) To this end, freezing and confiscation orders should be transmitted directly by the issuing authority to the executing authority ***or, where applicable,*** to a central authority.

Amendment

(20) To this end, freezing and confiscation orders should be transmitted directly by the issuing authority to the executing authority ***and communicated*** to a central authority ***responsible for assisting the competent authorities, logging the freezing or confiscation orders transmitted and received at the national level and streamlining the transmission and reception of orders.***

Or. en

Amendment 85
Barbara Spinelli

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) A confiscation order should be transmitted together with a standard certificate.

Amendment

(21) A confiscation **or freezing** order should be transmitted together with a standard certificate.

Or. en

Amendment 86
Barbara Spinelli

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) In the execution of a freezing order, the issuing authority and the executing authority should take due account of the confidentiality of the investigation. In particular, the executing authority should guarantee the confidentiality of the facts and the substance of the freezing order.

Amendment

(25) ***Without prejudice to the right to information of any person concerned***, in the execution of a freezing order, the issuing authority and the executing authority should take due account of the confidentiality of the investigation. In particular, the executing authority should guarantee the confidentiality of the facts and the substance of the freezing order.

Or. en

Justification

The shadow rapporteur agrees with the rapporteur that: "It is necessary to clarify the relationship between the obligation to supply information and the requirements of confidentiality. The confidential nature of an inquiry must not mean that a person is deprived of his or her right to information."

Amendment 87
Eva Joly

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) The recognition and execution of a freezing order or a confiscation order should not be refused on grounds other than those stated in this Regulation. In particular, it should be possible for the executing authority not to recognise and execute a confiscation order on the basis of the principle *ne bis in idem*, of the rights of any interested party, or of the right to be present at the trial.

Amendment

(26) The recognition and execution of a freezing order or a confiscation order should not be refused on grounds other than those stated in this Regulation. In particular, it should be possible for the executing authority not to recognise and execute a confiscation order on the basis of ***fundamental rights***, the principle *ne bis in idem*, of the rights of any interested party, or of the right to be present at the trial.

Or. en

Amendment 88
Birgit Sippel, Emilian Pavel

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) The creation of an area of freedom, security and justice within the Union is based on mutual confidence and a presumption of compliance by other Member States with Union law and, in particular, with fundamental rights. However, that presumption is rebuttable. Consequently, if there are substantial grounds for believing that the execution of a confiscation or freezing order would result in a breach of a fundamental right of the person concerned and that the executing State would disregard its obligations concerning the protection of fundamental rights recognised in the Charter, the execution of the confiscation or freezing order should be refused.

Or. en

Amendment 89
Nuno Melo, Axel Voss

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) The creation of an area of freedom, security and justice within the Union is based on mutual confidence and a presumption of compliance by other Member States with Union law and, in particular, with fundamental rights. However, that presumption is rebuttable. Consequently, if there are substantial grounds for believing that the execution of a confiscation or freezing order would result in a breach of a fundamental right of the person concerned and that the executing State would disregard its obligations concerning the protection of fundamental rights recognised in the Charter, execution of the confiscation or freezing order should be refused.

Or. en

Justification

I support the amendment introduced by the rapporteur reproducing the text adopted in the Directive 2014/41/EU on the European Investigation Order in criminal matters ("EIO Directive"), for which I was the rapporteur. The referred directive reinforces the principle of mutual recognition of judicial decisions in the area of judicial cooperation in criminal matters, which should be used as a model for future mutual recognition instruments.

Amendment 90
Barbara Spinelli

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) The principle of ne bis in idem is a fundamental principle of law in the Union, as recognised by the Charter and developed by the case-law of the Court of Justice of the European Union. Therefore the executing authority should be entitled to refuse to execute a confiscation or freezing order if execution would be contrary to that principle.

Or. en

Amendment 91
Birgit Sippel, Emilian Pavel

Proposal for a regulation
Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) This Regulation respects the fundamental rights and observes the principles recognised by Article 6 of the TEU and in the Charter, notably Title VI thereof, by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application. Nothing in this Regulation may be interpreted as prohibiting refusal to execute a confiscation or freezing order when there are reasons to believe, on the basis of objective elements, that the confiscation or freezing order has been issued for the purpose of prosecuting or punishing a person on account of his or her sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinions, or that the person's position may be prejudiced for any of these reasons.

Amendment 92
Nuno Melo, Axel Voss

Proposal for a regulation
Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) This Regulation respects the fundamental rights and observes the principles recognised by Article 6 of the TEU and in the Charter, notably Title VI thereof, by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application. Nothing in this Regulation may be interpreted as prohibiting refusal to execute a confiscation or freezing order when there are reasons to believe, on the basis of objective elements, that the confiscation or freezing order has been issued for the purpose of prosecuting or punishing a person on account of his or her sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinions, or that the person's position may be prejudiced for any of these reasons.

Or. en

Justification

I support the amendment introduced by the rapporteur reproducing the text adopted in the Directive 2014/41/EU on the European Investigation Order in criminal matters ("EIO Directive"), for which I was the rapporteur. The referred directive reinforces the principle of mutual recognition of judicial decisions in the area of judicial cooperation in criminal matters, which should be used as a model for future mutual recognition instruments.

Amendment 93
Barbara Spinelli

Proposal for a regulation
Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) If there are substantial grounds for believing that the execution of a confiscation or freezing order would result in a breach of a fundamental right of the person concerned and that the executing State would disregard its obligations concerning the protection of fundamental rights recognised in the Charter, execution of the confiscation or freezing order should be refused.

Or. en

Amendment 94
Barbara Spinelli

Proposal for a regulation
Recital 26 c (new)

Text proposed by the Commission

Amendment

(26c) This Regulation respects the fundamental rights and observes the principles recognised by Article 6 of the TEU and in the Charter, notably Title VI thereof, by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application. Nothing in this Regulation shall be interpreted as prohibiting refusal to execute a confiscation or freezing order when there

are reasons to believe, on the basis of objective elements, that the confiscation or freezing order has been issued for the purpose of prosecuting or punishing a person on account of his or her sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinions, or that the person's position may be prejudiced for any of these reasons.

Or. en

Amendment 95
Emilian Pavel, Maria Grapini

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) The execution of a confiscation *or a freezing* order should be governed by the law of the executing State and its authorities should alone be competent to decide on the procedures for execution.

Amendment

(30) The execution of a *freezing or a* confiscation order should be governed by the law of the executing State and its authorities should alone be competent to decide on the procedures for execution.

Or. en

Amendment 96
Monica Macovei

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) The victims' rights to compensation and restitution should not be prejudiced in cross-border cases. Rules for disposal of the confiscated property should give priority to the compensation and restitution of property to the victims. Member States should also take into account their

Amendment

(32) The victims' rights to compensation and restitution should not be prejudiced in cross-border cases. Rules for disposal of the confiscated property should give priority to the compensation and restitution of property to the victims, *thoroughly taking into account the fact that in cases*

obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU³⁶.

of corruption, massive tax evasion, tax fraud or money laundering, for example, the victims are large communities and even entire countries. Member States should also take into account their obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU³⁶.

³⁶ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

³⁶ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

Or. en

Amendment 97 **Barbara Spinelli**

Proposal for a regulation **Recital 32**

Text proposed by the Commission

(32) The victims' rights to compensation and restitution *should* not be prejudiced in cross-border cases. Rules for disposal of the confiscated property *should* give priority to the compensation and restitution of property to the victims. Member States should also take into account their obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU³⁶.

³⁶ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

Amendment

(32) The victims' rights to compensation and restitution *shall* not be prejudiced in cross-border cases. Rules for disposal of the confiscated property *shall* give priority to the compensation and restitution of property to the victims. Member States should also take into account their obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU³⁶.

³⁶ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

Or. en

Amendment 98
Barbara Spinelli

Proposal for a regulation
Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) Property frozen with a view to later confiscation, and property confiscated, should be managed adequately in order not to lose its economic value, to encourage its reuse for social purposes and to avoid the risk of further criminal infiltration. Accordingly, Member States should take the necessary measures, including sale or transfer of the property, to minimise such losses and to favour social aims. They should adopt all appropriate legislative or other measures such as the creation of centralised national property management offices or equivalent arrangements, with a view to the proper management of frozen or confiscated property.

Or. en

Justification

The shadow rapporteur agrees with the rapporteur that: "It is important to promote, at European level and within the Member States, the best possible management of frozen and confiscated property and its reuse for social purposes, for the compensation of victims, victims' families, and businesses which are victims of organised crime, or in order to combat organised crime."

Amendment 99
Salvatore Domenico Pogliese

Proposal for a regulation
Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) The rules on the destination of confiscated goods should include appropriate forms of compensation for the families of police officers and public servants killed in the line of duty and police officers and public servants permanently disabled in the line of duty. Each Member State should accordingly set up a fund earmarked for this purpose and assign to it a portion of the confiscated assets.

Or. it

Amendment 100
Salvatore Domenico Pogliese

Proposal for a regulation
Recital 32 b (new)

Text proposed by the Commission

Amendment

(32b) A portion of the confiscated assets should be earmarked for EU-managed structures to combat organised crime and terrorism.

A portion of the assets confiscated by the Member States should be transferred to the Union budget to provide additional funding for Europol and the European Counter Terrorism Centre.

Or. it

Amendment 101
Salvatore Domenico Pogliese

Proposal for a regulation
Recital 32 c (new)

Text proposed by the Commission

Amendment

(32c) Confiscated assets should be properly managed in order to reaffirm

and promote respect for legality through their reuse in the social and economic interest of the communities directly affected by the activities of terrorists and criminal organisations.

Or. it

Amendment 102

Maria Grapini

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) In order to amend the certificate and the form set out in Annexes I and II to this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Amendment

(35) In order to amend the certificate and the form set out in Annexes I and II to this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts *with specialised authorities in the Member States and the corresponding European agencies*, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Or. ro

Amendment 103

Gilles Lebreton, Nicolas Bay

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) *Since the objective of this Regulation, namely the mutual recognition and execution of freezing and confiscation orders, cannot be achieved by the Member States but can rather, by reason of its scale and its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union . In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.*

Amendment

(36) Mutual recognition and execution of freezing and confiscation orders *is achieved by* measures *that must comply* with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Or. fr

Amendment 104 **Monica Macovei**

Proposal for a regulation **Article 1 – paragraph 1**

Text proposed by the Commission

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of criminal proceedings.

Amendment

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of criminal, *civil or administrative* proceedings. *This Regulation lays down rules for mutual recognition of freezing and confiscation orders pertaining to main types of confiscation existing in member States: ordinary confiscation, extended confiscation, third party confiscation, value-based confiscation, non-conviction based confiscation.*

Or. en

Amendment 105
Emil Radev

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of *criminal* proceedings.

Amendment

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of proceedings *in criminal matters*.

Or. bg

Amendment 106
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of criminal *proceedings*.

Amendment

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of *a criminal action*.

Or. it

Amendment 107
Maria Grapini, Emilian Pavel

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall not have the effect of amending the obligation to respect

Amendment

2. This Regulation shall not have the effect of amending the obligation to respect

the fundamental rights and legal principles as *enshrined in* Article 6 TEU.

fundamental rights and legal principles, *in particular the right to a defence, the right to a fair trial and the right to property, as provided for by* Article 6 TEU.

Or. ro

Amendment 108
Emil Radev

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall not have the effect of amending the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU.

Amendment

2. This Regulation shall not have the effect of amending the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU *and in the Charter of Fundamental Rights of the European Union.*

Or. bg

Amendment 109
Barbara Spinelli

Proposal for a regulation
Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The issuing authority shall ensure, when issuing a freezing or confiscation order, that the principles of necessity and proportionality are respected.

Or. en

Amendment 110
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘confiscation order’ means a final penalty or measure imposed by a court following proceedings in relation to a criminal offence, resulting in the final deprivation of property from a natural or legal person;

Amendment

(1) ‘confiscation order’ means a final penalty or measure imposed by a court following proceedings in relation to a criminal, *civil or administrative* offence, resulting in the final deprivation of property from a natural or legal person;

Or. en

Amendment 111
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘confiscation order’ means a *final penalty or* measure imposed by a court following proceedings in relation to a criminal offence, resulting in the final deprivation of property from a natural or legal person;

Amendment

(1) ‘confiscation order’ means a measure imposed by a Court following proceedings in relation to a criminal offence, resulting in the final deprivation of property from a natural or legal person;

Or. en

Amendment 112
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) ordinary confiscation is a confiscation measure directed against an asset which is the direct proceed of a crime;

Amendment 113
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1 b (new)

Text proposed by the Commission

Amendment

(1b) extended confiscation is a confiscation measure that goes beyond the direct proceeds of a crime, where the property seized is derived from criminal conduct;

Or. en

Amendment 114
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1 c (new)

Text proposed by the Commission

Amendment

(1c) third party confiscation is a confiscation measure made to deprive someone other than the offender - the third party - of criminal property, where that third party is in possession of property transferred to him by the offender;

Or. en

Amendment 115
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1 d (new)

Text proposed by the Commission

Amendment

(1d) value-based confiscation is a confiscation measure by which a court, once it determines the benefit obtained by an individual from criminal conduct, imposes an order for the payment of money, which is realizable against any property of the individual;

Or. en

Amendment 116
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 1 e (new)

Text proposed by the Commission

Amendment

(1e) non-conviction based confiscation (NCB) is a confiscation measure taken in the absence of a conviction and directed against an asset from illicit origin. It covers cases where a criminal conviction is not possible because the suspect has become ill or fled the jurisdiction, has died or where the statute of limitations has passed. It also covers the cases of action against the asset itself, regardless of the person in possession of the property;

Or. en

Amendment 117
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘interested parties’ means any

natural or legal person, including bona fide third parties, who are affected by this Regulation in accordance with national law of the executing State;

Or. en

Amendment 118
Emil Radev

Proposal for a regulation
Article 2 – paragraph 1 – point 3 – introductory part

Text proposed by the Commission

(3) ‘property’ means *property of any description*, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such *property*, which the issuing authority considers to be :

Amendment

(3) ‘property’ means *money or assets of any kind*, whether corporeal or incorporeal, movable or immovable, *as well as limited property rights* and legal documents or instruments, *in any form including electronic or digital*, evidencing ownership or other title or interest in such *assets*, which the issuing authority considers to be:

Or. bg

Amendment 119
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘instrumentalities’ means any property used or intended to be used, in any manner, wholly or in part, to commit *a criminal offence or* criminal offences ;

Amendment

(5) ‘instrumentalities’ means any property used or intended to be used, in any manner, wholly or in part, to commit *one or several* criminal, *civil or administrative* offences ;

Or. en

Amendment 120
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the framework of criminal proceedings;

Amendment

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the framework of criminal, ***civil or administrative*** proceedings;

Or. en

Amendment 121
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 8 – point a – point 2

Text proposed by the Commission

(2) any other competent authority as defined by the issuing State which has competence in criminal proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the order has been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

Amendment

(2) any other competent authority as defined by the issuing State which has competence in criminal, ***civil or administrative*** proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the order has been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

Or. en

Amendment 122
Monica Macovei

Proposal for a regulation
Article 2 – paragraph 1 – point 8 – point b

Text proposed by the Commission

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Amendment

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal, ***civil or administrative*** proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Or. en

Amendment 123
Emil Radev

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts giving rise to the freezing or confiscation order constitute one or more of the following offences, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at least three years:

Amendment

1. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts – ***including acts of complicity and preparation as well as attempted acts*** – giving rise to the freezing or confiscation order constitute one or more of the following offences, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at least three years:

Or. bg

Amendment 124

Monica Macovei

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts giving rise to the freezing or confiscation order constitute one or more of the following offences, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at least **three** years: :

Amendment

1. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts giving rise to the freezing or confiscation order constitute one or more of the following offences, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at least **two** years: :

Or. en

Amendment 125

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 3 – paragraph 1 – indent 2

Text proposed by the Commission

- terrorism,

Amendment

- terrorism, **including the offences set out in Directive 2017/541/EU;**

Or. it

Amendment 126

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 3 – paragraph 1 – indent 3

Text proposed by the Commission

- trafficking in human beings,

Amendment

- **enslavement and** trafficking in human beings

Or. it

Amendment 127
Maria Grapini

Proposal for a regulation
Article 3 – paragraph 1 – indent 6

Text proposed by the Commission

- illicit trafficking in weapons, munitions and explosives,

Amendment

- illicit trafficking in weapons, munitions and explosives, ***hazardous chemicals and products that affect the ozone layer,***

Or. ro

Amendment 128
Monica Macovei

Proposal for a regulation
Article 3 – paragraph 1 – indent 8

Text proposed by the Commission

- fraud and fraud-related criminal offences as defined in Directive 2017/xxx/EU on the fight against fraud to the Union's financial interests by means of criminal law,

Amendment

- fraud and fraud-related criminal offences as defined in Directive 2017/xxx/EU on the fight against fraud to the Union's financial interests by means of criminal law, ***including tax fraud and tax evasion;***

Or. en

Amendment 129
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 3 – paragraph 1 – indent 9 a (new)

Text proposed by the Commission

Amendment

- ***tax offences relating to direct taxes and indirect taxes, including evading taxes by concealing income, earned either***

legally or illegally, from detection and collection by the tax authorities;

Or. it

Amendment 130
Monica Macovei

Proposal for a regulation
Article 3 – paragraph 1 – indent 10

Text proposed by the Commission

- laundering of the proceeds of crime,

Amendment

- laundering of the proceeds of crime, *including self-laundering;*

Or. en

Amendment 131
Monica Macovei

Proposal for a regulation
Article 3 – paragraph 1 – indent 12

Text proposed by the Commission

- computer-related *crime*,

Amendment

- *cybercrime and all other* computer-related *crimes*,

Or. en

Amendment 132
Salvatore Domenico Pogliese

Proposal for a regulation
Article 3 – paragraph 1 – indent 12 a (new)

Text proposed by the Commission

Amendment

- *offences against intellectual and industrial property,*

Justification

The additional offences relate to the current provisions of Italian framework legislation regarding confiscation and freezing. Experience in Italy has demonstrated the importance of including such offences, since they provide substantial sources of funding for organised crime.

Amendment 133

Maria Grapini

Proposal for a regulation

Article 3 – paragraph 1 – indent 13

Text proposed by the Commission

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

Amendment

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties, ***and illicit trafficking in timber,***

Or. ro

Amendment 134

Salvatore Domenico Pogliese

Proposal for a regulation

Article 3 – paragraph 1 – indent 13

Text proposed by the Commission

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

Amendment

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties ***and illicit waste trafficking,***

Or. it

Justification

The additional offences relate to the current provisions of Italian framework legislation regarding confiscation and freezing. Experience in Italy has demonstrated the importance of including such offences, since they provide substantial sources of funding for organised crime.

Amendment 135

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 3 – paragraph 1 – indent 13

Text proposed by the Commission

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

Amendment

- environmental crime, including ***illicit waste dumping and trafficking and*** illicit trafficking in endangered animal species and in endangered plant species and varieties,

Or. it

Amendment 136

Maria Grapini

Proposal for a regulation

Article 3 – paragraph 1 – indent 16

Text proposed by the Commission

- illicit trade in human organs ***and*** tissue,

Amendment

- illicit trade in human organs, tissue ***and cells,***

Or. ro

Amendment 137

Maria Grapini

Proposal for a regulation

Article 3 – paragraph 1 – indent 20

Text proposed by the Commission

- illicit trafficking in cultural goods, including antiques and works of art,

Amendment

- illicit trafficking in cultural goods, including antiques and works of art, ***illicit trafficking in precious metals and alloys of precious metals and precious stones,***

Or. ro

Amendment 138

Gilles Lebreton, Nicolas Bay

Proposal for a regulation

Article 3 – paragraph 1 – indent 21

Text proposed by the Commission

- ***swindling,***

Amendment

deleted

Or. fr

Amendment 139

Salvatore Domenico Pogliese

Proposal for a regulation

Article 3 – paragraph 1 – indent 22

Text proposed by the Commission

- racketeering ***and*** extortion,

Amendment

- racketeering, extortion ***and usury,***

Or. it

Justification

The additional offences relate to the current provisions of Italian framework legislation regarding confiscation and freezing. Experience in Italy has demonstrated the importance of including such offences, since they provide substantial sources of funding for organised crime.

Amendment 140

Salvatore Domenico Pogliese

Proposal for a regulation
Article 3 – paragraph 1 – indent 23

Text proposed by the Commission

- counterfeiting and piracy of products,

Amendment

- **smuggling**, counterfeiting and piracy of products,

Or. it

Justification

The additional offences relate to the current provisions of Italian framework legislation regarding confiscation and freezing. Experience in Italy has demonstrated the importance of including such offences, since they provide substantial sources of funding for organised crime.

Amendment 141
Maria Grapini

Proposal for a regulation
Article 3 – paragraph 1 – indent 27

Text proposed by the Commission

- illicit trafficking in nuclear *or* radioactive materials,

Amendment

- illicit trafficking in nuclear, radioactive *or biological* materials,

Or. ro

Amendment 142
Gilles Lebreton, Nicolas Bay

Proposal for a regulation
Article 3 – paragraph 1 – indent 28

Text proposed by the Commission

- *trafficking in stolen vehicles,*

Amendment

deleted

Or. fr

Amendment 143

Eva Joly

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts giving rise to the freezing or confiscation order constitute tax fraud, aggravated tax fraud and tax evasion, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at least two years.

Or. en

Amendment 144

Eva Joly

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. A confiscation order, or a certified copy of it, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority ***or, where applicable,*** to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

1. A confiscation order, or a certified copy of it, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority ***and communicated*** to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Or. en

Justification

The central authority should log all confiscation and freezing orders at the national level and should therefore be informed of the transmission (see our AM proposal to Article 27(2)).

Amendment 145
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

1. A confiscation order, ***or a certified copy of it***, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Amendment

1. A confiscation order, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Or. en

Amendment 146
Emil Radev

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

1. A confiscation order, or a certified copy of it, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Amendment

1. A confiscation order, or a certified copy of it, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish ***its*** authenticity.

Or. bg

Amendment 147
Monica Macovei

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. As regards a confiscation order concerning an amount of money, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.

Amendment

2. As regards a confiscation order concerning an amount of money, ***pertaining to value-based confiscation***, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.

Or. en

Amendment 148
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 4 – paragraph 6

Text proposed by the Commission

6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Amendment

6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately ***or within 3 working days at the latest***, transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Or. en

Amendment 149
Monica Macovei

Proposal for a regulation
Article 4 – paragraph 6

Text proposed by the Commission

6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Amendment

6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately **and no later than 10 hours** transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Or. en

Amendment 150
Maria Grapini

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. A confiscation order may only be transmitted pursuant to Article 4 to one executing State at any one time.

Amendment

1. ***In principle***, a confiscation order may only be transmitted pursuant to Article 4 to one executing State at any one time.

Or. ro

Justification

Given that the following paragraph makes provision for situations where the order may also be transmitted to other states at the same time, this would cancel out paragraph 1. Inserting the phrase ‘in principle’ makes it clear that paragraph 1 represents the general rule to which exceptions may be made.

Amendment 151
Monica Macovei

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Where a confiscation order concerning an amount of money is transmitted to one or more executing States, the total value derived from its execution may not exceed the maximum amount specified in the confiscation order.

2. Where a confiscation order concerning an amount of money is transmitted to one or more executing States, the total value derived from its execution may not exceed the maximum amount specified in the confiscation order.
In cases where the confiscation has already been executed fully or in part, such amount shall be deducted in full from the amount confiscated in the executing State.

Or. en

Amendment 152

Emilian Pavel, Maria Grapini

Proposal for a regulation

Article 6 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The issuing authority shall immediately inform the executing authority by any means capable of producing a written record:

The issuing authority shall immediately ***or within 3 working days at the latest***, inform the executing authority by any means capable of producing a written record:

Or. en

Amendment 153

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 6 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The issuing authority shall immediately inform the executing authority by any means capable of producing a written record:

The issuing authority shall immediately ***and at the latest within 24 hours*** inform the executing authority by any means capable of producing a written record:

Amendment 154
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 6 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) if all or a part of the *freezing or* confiscation order has been executed in the issuing State or in another executing State, specifying the amount for which the *freezing or* confiscation order has not yet been executed;

Amendment

(b) if all or a part of the confiscation order has been executed in the issuing State or in another executing State, specifying the amount for which the confiscation order has not yet been executed;

Or. en

Amendment 155
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

4. Where the issuing State has indicated that it wishes to withdraw the order from the executing State for any reason, the executing State shall terminate the execution of the confiscation order immediately.

Amendment

4. Where the issuing State has indicated that it wishes to withdraw the order from the executing State for any reason, the executing State shall terminate the execution of the confiscation order immediately *or within 3 working days at the latest*.

Or. en

Amendment 156
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

4. As soon as the execution of the order has been completed the executing authority shall **inform** the issuing authority by any means capable of producing a written record.

Amendment

4. As soon as the execution of the order has been completed the executing authority shall **immediately and at the latest within 24 hours notify** the issuing authority by any means capable of producing a written record.

Or. it

Amendment 157
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 9

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Amendment 158
Barbara Spinelli

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The executing authority **may** decide not to recognise and not to execute confiscation orders **only** if:

Amendment

The executing authority **must** decide not to recognise and not to execute confiscation orders if:

Or. en

Amendment 159
Eva Joly

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) there are substantial grounds to believe that the execution of the confiscation order would be incompatible with the executing State's obligations in accordance with Article 6 TEU and the Charter of Fundamental Rights;

Or. en

Amendment 160

Monica Macovei

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) the execution of the confiscation order would be contrary to the ne bis in idem principle;

(b) the execution of the confiscation order would be contrary to the ne bis in idem principle, ***provided that the effectiveness of a non-conviction based confiscation should not be affected by a temporary non-deferred prosecution agreement.***

Or. en

Amendment 161

Monica Macovei

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) ***there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order on the property concerned;***

deleted

Amendment 162
Barbara Spinelli

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) *there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order on the property concerned;* *deleted*

Or. en

Amendment 163
Monica Macovei

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) the confiscation order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State and the conduct in connection with which the confiscation order is issued is not an offence in the executing State;

(d) the confiscation order is based on a criminal, *civil or administrative* offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State and the conduct in connection with which the confiscation order is issued is not an offence in the executing State;

Or. en

Amendment 164
Eva Joly

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

(f) if, in a case referred to in Article 3(2), the conduct on which the confiscation order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the confiscation order shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

Amendment

(f) if, in a case referred to in Article 3(2), the conduct on which the confiscation order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the confiscation order shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules **or offences** as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

Or. en

Amendment 165

Nuno Melo, Axel Voss

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) There are substantial grounds for believing that executing the confiscation order would be incompatible with the executing State's obligations in accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Justification

I support the amendment introduced by the rapporteur reproducing the text adopted in the Directive 2014/41/EU on the European Investigation Order in criminal matters ("EIO Directive"), for which I was the rapporteur. The referred directive reinforces the principle of mutual recognition of judicial decisions in the area of judicial cooperation in criminal matters, which should be used as a model for future mutual recognition instruments.

Amendment 166

Barbara Spinelli

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) there are substantial grounds for believing that executing the confiscation order would be incompatible with the executing State's obligations in accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Amendment 167

Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation

Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Grounds for mandatory non-recognition and non-execution of confiscation orders

The executing authority of the Member State of execution shall refuse to recognise and to execute confiscation orders only if:

(a) the execution of the confiscation order would be contrary to the ne bis in idem principle;

(b) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order on the property concerned;

(c) the rights of any bona fide third party make it impossible under the law of the executing State to execute the confiscation order, including where that impossibility is a consequence of the

application of legal remedies in accordance with Article 31;

(d) there are substantial grounds to believe that the execution of the confiscation order would be incompatible with the obligations of the executing State in accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Amendment 168

Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation

Article 9 b (new)

Text proposed by the Commission

Amendment

Article 9 b

Grounds for optional non-recognition and non-execution of confiscation orders

1. The executing authority of the Member State of execution may decide not to recognise and not to execute confiscation orders only if:

(a) the certificate provided for in Article 7 is incomplete, manifestly incorrect or manifestly does not correspond to the confiscation order, and has not been completed following the consultation in accordance with paragraph 2;

(b) the confiscation order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State and the conduct in connection with which the confiscation order is issued is not an offence in the executing State;

(c) if, in a case referred to in Article 3(2), the conduct on which the confiscation order is based does not

constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the confiscation order shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

(d) according to the certificate provided for in Article 7, the person did not appear in person at the trial resulting in a confiscation order linked to a final conviction.

That ground as recognized only in point (d) of this paragraph, for non-recognition and non execution shall not apply where the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

(1) was summoned in due time in person and thereby informed of the scheduled date and place of the trial which resulted in the confiscation order, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that the interested person was aware of the scheduled trial, and was informed in due time that such a confiscation order could be handed down if the interested person did not appear for the trial;

(2) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend the interested person at the trial and was indeed defended by that counsellor at the trial; or

(3) after being served with the confiscation order and being expressly informed of the right to a retrial, or an appeal, in which the person has the right

to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which could lead to the original decision being reversed:

- expressly stated that the interested person does not contest the confiscation order, or

- did not request a retrial or appeal within the applicable time frame.

2. In the cases referred to in paragraph 1, before deciding not to recognise and execute the confiscation order, either in whole or in part, the executing authority shall consult the issuing authority by any appropriate means and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

3. Any decision not to recognise and to execute shall be taken without delay and notified immediately and at the latest within 3 days to the issuing authority by any means capable of producing a written record.

Or. en

Amendment 169
Maria Grapini, Emilian Pavel

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. The decision on the recognition and execution of the confiscation order shall be taken and the confiscation be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided for in this Article.

Amendment

1. The decision on the recognition and execution of the confiscation order shall be taken and the confiscation be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the ***clear and reasonable*** time limits provided for in this Article.

Or. ro

Amendment 170
Monica Macovei

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **30** days after the executing authority has received the confiscation order.

Amendment

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **15** days after the executing authority has received the confiscation order.

Or. en

Amendment 171
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **30** days after the executing authority has received the confiscation order.

Amendment

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **10** days after the executing authority has received the confiscation order.

Or. it

Amendment 172
Gilles Lebreton, Nicolas Bay

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **30 days** after the executing authority has received the confiscation order.

Amendment

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **two months** after the executing authority has received the confiscation order.

Or. fr

Amendment 173

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

3. The executing authority shall communicate the decision on a confiscation order to the issuing authority **without delay** by any means capable of producing a written record.

Amendment

3. The executing authority shall **immediately and at the latest within 10 days** communicate the decision on a confiscation order to the issuing authority without delay by any means capable of producing a written record.

Or. it

Amendment 174

Monica Macovei

Proposal for a regulation

Article 10 – paragraph 4

Text proposed by the Commission

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **30 days** following the taking of the decision referred to in paragraph 2 of this Article.

Amendment

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **15 days** following the taking of the decision referred to in paragraph 2 of this Article.

Amendment 175

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 10 – paragraph 4

Text proposed by the Commission

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **30** days following the taking of the decision referred to in paragraph 2 of this Article.

Amendment

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **10** days following the taking of the decision referred to in paragraph 2 of this Article.

Or. it

Amendment 176

Maria Grapini

Proposal for a regulation

Article 10 – paragraph 4

Text proposed by the Commission

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **30** days following the taking of the decision referred to in paragraph 2 of this Article.

Amendment

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **15** days following the taking of the decision referred to in paragraph 2 of this Article.

Or. ro

Amendment 177

Salvatore Domenico Pogliese

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of 30 days.

Amendment

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means **capable of producing a written record**, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of 30 days.

Or. it

Amendment 178
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, **without delay**, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of 30 days.

Amendment

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, **within 3 working days at the latest**, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of 30 days.

Or. en

Amendment 179
Monica Macovei

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended **by** a maximum of 30 days.

Amendment

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended **to** a maximum of 30 days.

Or. en

Amendment 180
Emil Radev

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. The executing authority shall immediately report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement.

Amendment

2. The executing authority shall without delay make a report to the issuing authority, by any means capable of producing a written record, on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. ***In the event of a postponement under the provisions of subparagraph (b), the issuing authority shall, in cases of execution of a confiscation order in more than one Member State, issue fresh instructions as to the exact amount of money subject to confiscation.***

Or. bg

Amendment 181

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 11 – paragraph 2

Text proposed by the Commission

2. The executing authority shall ***without delay make a report to*** the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, ***if possible***, the expected duration of the postponement.

Amendment

2. The executing authority shall ***immediately and at the latest within 24 hours notify*** the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and the expected duration of the postponement.

Or. it

Amendment 182

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 11 – paragraph 3

Text proposed by the Commission

3. As soon as the ground for postponement has ceased to exist, the executing authority shall ***without delay*** take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Amendment

3. As soon as the ground for postponement has ceased to exist, the executing authority shall ***immediately and at the latest within 10 days*** take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Or. it

Amendment 183

Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation

Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11 a

Obligation to inform the interested parties on the execution of confiscation orders

1. Member States shall take the necessary measures to ensure that the confiscation order is communicated to the interested natural or legal person, including any bona fide third parties, at the latest within 48 hours after its execution. Such communication shall indicate the reason or reasons for the order concerned.

2. Member States shall take the necessary measures to ensure that the persons affected by the measures provided for under this Regulation have the right to an effective remedy and a fair trial in order to uphold their rights.

3. Without prejudice to Directive 2012/13/EU and Directive 2013/48/EU, persons whose property is affected by a confiscation order shall have the right of access to a lawyer throughout the confiscation proceedings relating to the determination of the proceeds and instrumentalities in order to uphold their rights. The persons concerned shall be informed of that right.

4. The interested person shall have an effective possibility to challenge the circumstances of the case, including specific facts and available evidence on the basis of which the property concerned is considered to be property that is derived from criminal conduct.

5. Third parties shall be entitled to claim title of ownership or other property rights.

6. Where, as a result of a criminal offence, victims have claims against the person who is subject to a confiscation measure provided for under this Regulation, Member States shall take the

necessary measures to ensure that the confiscation measure does not prevent those victims from seeking compensation for their claims.

Or. en

Amendment 184
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *without delay*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Amendment

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *within 3 working days at the latest*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Or. en

Amendment 185
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been

Amendment

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been

destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *without delay*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *immediately and at the latest within 24 hours*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Or. it

Amendment 186
Monica Macovei

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *without delay*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Amendment

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *within maximum 48 hours*. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Or. en

Amendment 187
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 13 – paragraph 1 – point a

Text proposed by the Commission

(a) the issuing of the order is necessary and proportionate in order to provisionally prevent the destruction, transformation, moving, transfer or disposal of property with a view to possible subsequent confiscation taking into account the rights of the person concerned;

Amendment

(a) the issuing of the order is necessary and proportionate in order to provisionally prevent the destruction, transformation, moving, transfer or disposal of property with a view to possible subsequent confiscation taking into account the rights of the person concerned ***and any third parties acting in good faith;***

Or. it

Amendment 188

Emil Radev

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

(b) the order could have been ordered under the same conditions in a similar domestic case; and

Amendment

(b) *(Does not affect the English version.)*

Or. bg

Amendment 189

Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation

Article 13 – paragraph 1 – point c

Text proposed by the Commission

(c) the reason or reasons for the order are properly indicated, ***at least briefly.***

Amendment

(c) the reason or reasons for the order are properly indicated.

Or. it

Amendment 190

Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 13 – paragraph 1 – point c

Text proposed by the Commission

(c) the reason or reasons for the order are properly indicated, ***at least briefly***.

Amendment

(c) the reason or reasons for the order are properly indicated.

Or. en

Amendment 191
Eva Joly

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

1. A freezing order shall be transmitted in the form referred to in Article 16 by the issuing authority directly to the executing authority, ***or where applicable*** to the central authority referred to in Article 27(2), by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Amendment

1. A freezing order shall be transmitted in the form referred to in Article 16 by the issuing authority directly to the executing authority ***and communicated*** to the central authority referred to in Article 27(2), by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.

Or. en

Justification

The central authority should log all confiscation and freezing orders at the national level and should therefore be informed of the transmission (linked to our AM on Article 27(2)).

Amendment 192
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 14 – paragraph 8

Text proposed by the Commission

8. Where the executing authority

Amendment

8. Where the executing authority

PE612.375v01-00

66/109

AM\1138070EN.docx

which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately ***or within 3 working days at the latest***, transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Or. en

Amendment 193

Monica Macovei

Proposal for a regulation

Article 14 – paragraph 8

Text proposed by the Commission

8. Where the executing authority which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Amendment

8. Where the executing authority which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately ***and no later than 24 hours*** transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.

Or. en

Amendment 194

Maria Grapini

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. A freezing order may only be transmitted pursuant to Article 14 to one executing State at any one time.

Amendment

1. ***In principle***, a freezing order may only be transmitted pursuant to Article 14 to one executing State at any one time.

Or. ro

Amendment 195

Eva Joly

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

The executing authority shall recognise a freezing order transmitted in accordance with Article 14 without further formalities and shall take the necessary measures to execute it unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 18 or one of the grounds for postponement provided for in Article 20.

Amendment

The executing authority shall recognise a freezing order transmitted in accordance with Article 14 without further formalities and shall take the necessary measures to execute it unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 18 or one of the grounds for postponement provided for in Article 20. ***As soon as the execution of the order has been completed, the executing authority shall inform the issuing authority by any means capable of producing a written record.***

Or. en

Justification

In order to avoid, as much as possible, the simultaneous execution of freezing orders in various Member States, there should be a strict obligation for Member States to inform each other upon the successful execution of a freezing order. This exists for confiscation orders in Article 8.

Amendment 196

Emilian Pavel, Maria Grapini

Proposal for a regulation

Article 18

Text proposed by the Commission

Article 18

Grounds for non-recognition and non-execution of freezing orders

Amendment

deleted

1. The executing authority may decide not to recognise and not to execute the freezing order only if:

(a) the form provided for in Article 16 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2;

(b) the execution of the order would be contrary to the ne bis in idem principle

(c) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic freezing order on the property concerned;

(d) the order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the freezing order is issued is not an offence in the executing State;

(e) in a case referred to in Article 3(2), the conduct on which the freezing order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the freezing order shall not be refused on the grounds that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

2. In the cases referred to in paragraph 1, before deciding not to recognise or not to execute the freezing order either in whole or in part, the executing authority shall consult the issuing authority, by any appropriate means, and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

3. The executing authority may decide to lift the freezing order if, during the

execution, it becomes aware that one of the grounds for non-recognition and non-execution applies.

Or. en

Amendment 197
Barbara Spinelli

Proposal for a regulation
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. The executing authority *may* decide not to recognise and not to execute the freezing order *only* if:

Amendment

1. The executing authority *shall* decide not to recognise and not to execute the freezing order if:

Or. en

Amendment 198
Emil Radev

Proposal for a regulation
Article 18 – paragraph 1 – point a

Text proposed by the Commission

(a) the form provided for in Article 16 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2;

Amendment

(a) the form provided for in Article 16 *has not been translated into an official language of the executing authority or* is incomplete or manifestly incorrect and has not been completed following the consultation in accordance with paragraph 2;

Or. bg

Amendment 199
Eva Joly

Proposal for a regulation

Article 18 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) there are substantial grounds to believe that the execution of the freezing order would be incompatible with the executing State's obligations in accordance with Article 6 TEU and the Charter of Fundamental Rights;

Or. en

Amendment 200
Monica Macovei

Proposal for a regulation
Article 18 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic freezing order on the property concerned;

deleted

Or. en

Amendment 201
Eva Joly

Proposal for a regulation
Article 18 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) in a case referred to in Article 3(2), the conduct on which the freezing order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the freezing order shall not be refused on the grounds that the law of the *executing State* does not impose

(e) in a case referred to in Article 3(2), the conduct on which the freezing order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the freezing order shall not be refused on the grounds that the law of the *executing State* does not impose

the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

the same kind of tax or duty or does not contain the same type of rules *or offences* as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

Or. en

Amendment 202
Nuno Melo, Axel Voss

Proposal for a regulation
Article 18 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) There are substantial grounds for believing that executing the freezing order would be incompatible with the executing State's obligations in accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Justification

I support the amendment introduced by the rapporteur reproducing the text adopted in the Directive 2014/41/EU on the European Investigation Order in criminal matters ("EIO Directive"), for which I was the rapporteur. The referred directive reinforces the principle of mutual recognition of judicial decisions in the area of judicial cooperation in criminal matters, which should be used as a model for future mutual recognition instruments.

Amendment 203
Barbara Spinelli

Proposal for a regulation
Article 18 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) there are substantial grounds for believing that executing the confiscation order would be incompatible with the executing State's obligations in

accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Amendment 204
Salvatore Domenico Pogliese

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

3. The executing authority may decide to lift the freezing order if, during the execution, it becomes aware that one of the grounds for non-recognition and non-execution applies.

Amendment

3. The executing authority may decide to lift the freezing order if, during the execution, it becomes aware that one of the grounds for non-recognition and non-execution applies. ***The executing authority shall communicate to the issuing authority, by any means capable of producing a written record, the reasons for the decision to revoke the freezing order.***

Or. it

Amendment 205
Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18 a

Grounds for mandatory non-recognition and non-execution of freezing orders

1. The executing authority of the Member State of execution shall refuse to recognise and to execute freezing orders only if:

(a) the execution of the order would be contrary to the ne bis in idem

principle;

(b) here is immunity or privilege under the law of the executing State which would prevent the execution of a domestic freezing order on the property concerned;

(c) the rights of any bona fide third party make it impossible under the law of the executing State to execute the freezing order, including where that impossibility is a consequence of the application of legal remedies in accordance with Article 31;

(d) there are substantial grounds to believe that the execution of the freezing order would be incompatible with the obligations of the executing State in accordance with Article 6 of the Treaty on European Union and the Charter.

Or. en

Amendment 206
Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation
Article 18 b (new)

Text proposed by the Commission

Amendment

Article 18 b

Grounds for optional non-recognition and non-execution of freezing orders

1. The executing authority of the Member State of execution may decide not to recognise and not to execute the freezing order only if:

(a) the form provided for in Article 16 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2;

(b) the order is based on a criminal

offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the freezing order is issued is not an offence in the executing State;

(c) in a case referred to in Article 3(2), the conduct on which the freezing order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the freezing order shall not be refused on the grounds that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State;

2. In the cases referred to in paragraph 1, before deciding not to recognise or not to execute the freezing order either in whole or in part, the executing authority shall consult the issuing authority, by any appropriate means, and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

3. The executing authority may decide to lift the freezing order if, during the execution, it becomes aware that one of the grounds for non-recognition and non-execution applies.

Or. en

Amendment 207
Emil Radev

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where the issuing authority has

AM\1138070EN.docx

Amendment

2. Where the issuing authority has

75/109

PE612.375v01-00

EN

indicated in the freezing order that there are legitimate grounds to believe that the property in question will imminently be moved or destroyed and that immediate freezing is necessary, or if the issuing authority has indicated in the freezing order that the freezing measure has to be carried out on a specific date, the executing authority shall take full account of this requirement.

indicated in the freezing order that there are legitimate grounds to believe that the property in question will imminently be moved or destroyed and that immediate freezing is necessary, or if the issuing authority has indicated in the freezing order that the freezing measure has to be carried out on a specific date, the executing authority shall, *in so far as possible*, take full account of this requirement.

Or. bg

Amendment 208
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. The executing authority shall take the decision on the recognition and execution of the freezing order, or on consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than **24** hours after the executing authority has received the freezing order.

Amendment

3. The executing authority shall take the decision on the recognition and execution of the freezing order, or on consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than **48 working** hours after the executing authority has received the freezing order.

Or. en

Amendment 209
Emil Radev

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. The executing authority shall take the decision on the recognition and execution of the freezing order, or on

Amendment

3. The executing authority shall take the decision on the recognition and execution of the freezing order, or on

consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than **24** hours after the executing authority has received the freezing order.

consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than **48** hours after the executing authority has received the freezing order.

Or. bg

Amendment 210
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order ***without delay***.

Amendment

4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order ***within 3 working days at the latest***.

Or. en

Amendment 211
Monica Macovei

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order without delay.

Amendment

4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order without delay ***and no later than 48 hours following the consultation***.

Or. en

Amendment 212
Monica Macovei

Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission

5. The executing authority shall communicate the decision on a freezing order to the issuing authority ***without delay*** by any means capable of producing a written record.

Amendment

5. The executing authority shall communicate the decision on a freezing order to the issuing authority ***immediately and no later than 10 hours*** by any means capable of producing a written record.

Or. en

Amendment 213
Ignazio Corrao, Laura Ferrara, Fabio Massimo Castaldo

Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission

5. The executing authority shall communicate the decision on a freezing order to the issuing authority ***without delay*** by any means capable of producing a written record.

Amendment

5. The executing authority shall communicate the decision on a freezing order to the issuing authority ***immediately*** by any means capable of producing a written record.

Or. it

Amendment 214
Emil Radev

Proposal for a regulation
Article 19 – paragraph 6

Text proposed by the Commission

6. Unless grounds for postponement pursuant to Article 20 exist, the executing authority shall carry out the freezing

Amendment

6. Unless grounds for postponement pursuant to Article 20 exist, the executing authority shall carry out the freezing

without delay and without prejudice to paragraph 7 of this Article, not later than **24** hours after taking the decision referred to in paragraph 3 of this Article.

without delay and without prejudice to paragraph 7 of this Article, not later than **48** hours after taking the decision referred to in paragraph 3 of this Article.

Or. bg

Amendment 215
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 19 – paragraph 7

Text proposed by the Commission

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority shall immediately inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Amendment

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority shall immediately ***or within 3 working days at the latest***, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Or. en

Amendment 216
Salvatore Domenico Pogliese

Proposal for a regulation
Article 19 – paragraph 7

Text proposed by the Commission

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority shall immediately inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Amendment

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority shall immediately inform the issuing authority by any means ***capable of producing a written record***, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Or. it

Amendment 217
Monica Macovei

Proposal for a regulation
Article 20 – paragraph 1 – point 4

Text proposed by the Commission

(4) However, this point shall only apply where such an order would have priority over subsequent national freezing orders in criminal proceedings under national law.

Amendment

(4) However, this point shall only apply where such an order would have priority over subsequent national freezing orders in criminal, ***civil or administrative*** proceedings under national law.

Or. en

Amendment 218
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

2. The executing authority shall immediately report to the ***issuing*** authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Amendment

2. The executing authority shall immediately ***or within 3 working days at the latest,*** report to the ***issuing*** authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Or. en

Amendment 219
Monica Macovei

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

2. The executing authority shall immediately report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Amendment

2. The executing authority shall immediately **and no later than 24 hours** report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.

Or. en

Amendment 220
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 21

Text proposed by the Commission

Article 21

Obligation to inform the interested parties

1. Without prejudice to Article 22, following the execution, the executing authority shall notify its decision to the person against whom the freezing order has been issued and to any interested party including bona fide third parties of which the executing authority has been informed in accordance with Article 14(6).

Amendment

deleted

2. The notification shall contain information, at least briefly, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Or. en

Amendment 221
Eva Joly

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. The notification shall contain information, **at least briefly**, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Amendment

2. The notification shall contain information on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Or. en

Justification

Identical to AM 53 of the Rapporteur: there is a risk of lowering the right to information of third parties.

Amendment 222
Barbara Spinelli

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. The notification shall contain information, **at least briefly**, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the

Amendment

2. The notification shall contain information on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing

executing State.

State.

Or. en

Amendment 223
Salvatore Domenico Pogliese

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

2. The notification shall contain information, *at least briefly*, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Amendment

2. The notification shall contain information on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Or. it

Justification

The information requirement is essential order to uphold the defence rights of the person against whom the order has been issued.

Amendment 224
Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation
Article 21 a (new)

Text proposed by the Commission

Amendment

Article 21 a

***Obligation to inform the interested parties
on the execution of freezing orders***

1. Member States shall take the necessary measures to ensure that the freezing order is communicated to the interested natural or legal person, including any bona fide third parties, as soon as possible after its execution. Such communication shall indicate, the reason

or reasons for the order concerned. When it is necessary to avoid jeopardising a criminal investigation, the competent authorities may postpone communicating the freezing order to the interested person.

2. Member States shall take the necessary measures to ensure that the interested persons by the measures provided for under this Regulation have the right to an effective remedy and a fair trial in order to uphold their rights.

3. The freezing order shall remain in force only for as long as it is necessary to preserve the property with a view to possible subsequent confiscation.

4. Member States shall provide for the effective possibility for the person whose property is affected to challenge the freezing order before a Court, in accordance with procedures provided for in national law. Such procedures may provide that when the initial freezing order has been taken by a competent authority other than a judicial authority, such order shall first be submitted for validation or review to a judicial authority before it can be challenged before a Court.

5. Frozen property which is not subsequently confiscated shall be returned immediately. The conditions or procedural rules under which such property is returned shall be determined by national law.

6. Without prejudice to Directive 2012/13/EU and Directive 2013/48/EU, persons whose property is affected by a freezing order shall have the right of access to a lawyer throughout the freezing proceedings relating to the determination of the proceeds and instrumentalities in order to uphold their rights. The persons concerned shall be informed of that right.

7. Third parties shall be entitled to claim title of ownership or other property

rights.

8. The notification shall contain relevant information, in such a way that the person can lodge effective legal remedies, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State.

Or. en

Amendment 225
Barbara Spinelli

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. In the execution of a freezing order the issuing authority and the executing authority shall take due account of the confidentiality of the investigation.

Amendment

1. ***Without prejudice to the right to information of any person concerned,*** in the execution of a freezing order the issuing authority and the executing authority shall take due account of the confidentiality of the investigation.

Or. en

Justification

The relationship between the obligation to supply information (Article 21) and the requirements of confidentiality (Article 22) should be clarified. The confidential nature of an inquiry must not mean that a person is deprived of their right to information.

Amendment 226
Salvatore Domenico Pogliese

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. The executing authority shall, in

Amendment

2. The executing authority shall, in

accordance with its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately.

accordance with its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately, ***indicating the reasons for this by any means capable of producing a written record.***

Or. it

Amendment 227
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately.

Amendment

2. The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately ***and at the latest within 3 working days.***

Or. en

Amendment 228
Barbara Spinelli

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and the

Amendment

2. The executing authority shall, in accordance with its national ***and EU*** law, guarantee the confidentiality of the facts

substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately.

and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately.

Or. en

Amendment 229
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 22 – paragraph 3

Text proposed by the Commission

3. For the purpose of safeguarding ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential for a limited period of time.

Amendment

3. For the purpose of safeguarding ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential for a limited period of time, ***but no longer than the moment when the case is sent to trial.***

Or. en

Amendment 230
Salvatore Domenico Pogliese

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case, may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the

Amendment

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case, may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof ***by any means capable of***

issuing authority does not do so within six weeks of receiving the request, the executing authority may lift the freezing order.

producing a written record, stating its reasons. If the issuing authority does not do so within six weeks of receiving the request, the executing authority may lift the freezing order.

Or. it

Amendment 231

Monica Macovei

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case, may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within six weeks of receiving the request, the executing authority may lift the freezing order.

Amendment

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case, may make a reasoned request, *accompanied by evidence related to these circumstances*, to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within six weeks of receiving the request, the executing authority may lift the freezing order.

Or. en

Amendment 232

Maria Grapini

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case,

Amendment

2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case,

may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within *six* weeks of receiving the request, the executing authority may lift the freezing order.

may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within *four* weeks of receiving the request, the executing authority may lift the freezing order.

Or. ro

Amendment 233
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Where it is impossible to execute the freezing order because the property to be frozen has already been confiscated, has disappeared, has been destroyed or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *without delay*.

Amendment

Where it is impossible to execute the freezing order because the property to be frozen has already been confiscated, has disappeared, has been destroyed or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified *within 3 working days at the latest*.

Or. en

Amendment 234
Monica Macovei

Proposal for a regulation
Article 26 – paragraph 1

Text proposed by the Commission

1. The execution of the freezing or confiscation order shall be governed by the law of the executing State and its

Amendment

1. The execution of the freezing or confiscation order shall be governed by the law of the executing State and its

authorities shall be solely competent to decide on the procedures for execution and to determine all the measures relating thereto.

authorities shall be solely competent to decide on the procedures for execution and to determine all the measures relating thereto. ***Member States shall take the necessary measures to enable the detection and tracing of property to be frozen and confiscated even after a final conviction for a criminal offence or following proceedings in application of non-conviction based confiscation in order to ensure the effective execution of a confiscation order, if such an order has already been issued.***

Or. en

Amendment 235

Eva Joly

Proposal for a regulation

Article 27 – paragraph 2

Text proposed by the Commission

2. Each Member State ***may*** designate, ***if it is necessary as a result of the organisation of its internal system, one or more central authorities*** responsible for ***the administrative*** transmission and reception of the freezing ***or*** confiscation orders ***and to assist the competent authorities***. The Member States shall inform the Commission thereof.

Amendment

2. Each Member State ***shall*** designate ***one*** central ***authority*** responsible for ***assisting the competent authorities, logging all freezing and confiscation orders transmitted and received at the national level and streamlining the*** transmission and reception of the freezing ***and*** confiscation orders. The Member States shall inform the Commission thereof.

Or. en

Justification

Each MS should have one clearly identified central authority responsible for assisting the competent authorities, logging all orders transmitted and received at the national level and helping to make the transmission and reception of the orders more efficient.

Amendment 236

Monica Macovei

**Proposal for a regulation
Article 28 – paragraph 1**

Text proposed by the Commission

1. Where necessary, the issuing authority and the executing authority shall consult each other, by any appropriate means, in order to ensure the efficient application of this Regulation.

Amendment

1. Where necessary, the issuing authority and the executing authority shall **rapidly** consult each other, by any appropriate means, in order to ensure the efficient application of this Regulation.

Or. en

Amendment 237

Eva Joly

**Proposal for a regulation
Article 28 – paragraph 2**

Text proposed by the Commission

2. All communications, including those intended to deal with difficulties concerning the transmission or authenticity of any document needed for the execution of the freezing or confiscation order, shall be made by direct contact between the issuing State and the executing authority involved **or, where the Member State has designated a central authority in accordance with Article 27(2), with the involvement of that central authority.**

Amendment

2. All communications, including those intended to deal with difficulties concerning the transmission or authenticity of any document needed for the execution of the freezing or confiscation order, shall be made by direct contact between the issuing State and the executing authority involved **and with the involvement of the central authority in accordance with Article 27(2).**

Or. en

Justification

The central authority established in each MS should be involved in communications between competent authorities, in order to make the procedures more efficient.

Amendment 238

Monica Macovei

Proposal for a regulation
Article 29 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Those circumstances may include the interest of victims, the involvement of frozen assets, the dates of the respective orders and their dates of transmission and the relative seriousness and place of the offence.

Amendment

Those circumstances may include the interest of victims, the involvement of frozen assets, the dates of the respective orders and their dates of transmission and the relative seriousness and place of the offence, ***taking into account that in cases of corruption, massive money laundering or substantial fraud, the victims are large communities and entire countries.***

Or. en

Amendment 239
Emilian Pavel, Maria Grapini

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

The issuing authority shall immediately inform the executing authority by any means capable of producing a written record of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn for any other reason.

Amendment

The issuing authority shall immediately ***or within 48 working hours at the latest, inform the executing authority by any means capable of producing a written record of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn for any other reason.***

Or. en

Amendment 240
Salvatore Domenico Pogliese

Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

Amendment

The executing State shall terminate the execution of the order as soon as it is informed by the issuing authority of that decision or measure.

The executing State shall terminate the execution of the order as soon as it is informed by the issuing authority of that decision or measure ***and shall confirm this to the issuing country without delay by any means capable of producing a written record.***

Or. it

Amendment 241
Monica Macovei

Proposal for a regulation
Article 31 – paragraph 2 – point a

Text proposed by the Commission

(a) if the amount obtained from the execution of the confiscation order is equal to or less than EUR 10 000, the amount shall accrue to the executing State;

Amendment

(a) if the amount obtained from the execution of the confiscation order is equal to or less than EUR 10 000, ***50% of*** the amount shall accrue to the executing State, ***minus execution expenses;***

Or. en

Amendment 242
Monica Macovei

Proposal for a regulation
Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, ***50 %*** of the amount shall be transferred by the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, ***80 %*** of the amount shall be transferred by the executing State to the issuing State, ***while making sure that the remaining 20% cover the execution expenses.***

Or. en

Amendment 243

Eva Joly

Proposal for a regulation

Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **50 %** of the amount shall be transferred by the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **EUR 10 000 shall accrue to the executing State and the rest** of the amount shall be transferred by the executing State to the issuing State.

Or. en

Justification

The Commission suggests that for assets confiscated above €10000, the State issuing the confiscation order and the State executing it share the proceeds 50/50, while there is no justification for this (other than providing an incentive for the executing State). We suggest a different approach: the costs of confiscating the property should be deducted (for the executing State to cover its expenses) but the rest of the property should be given back to the State which issued the confiscation order.

Amendment 244

Emilian Pavel, Maria Grapini

Proposal for a regulation

Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **50 % of** the amount shall be transferred **by** the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, the amount shall be transferred **as follows, 30 % to** the executing State **and 70%** to the issuing State.

Or. en

Amendment 245
Salvatore Domenico Pogliese

Proposal for a regulation
Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **50%** of the amount shall be transferred by the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **70%** of the amount shall be transferred by the executing State to the issuing State.

Or. it

Amendment 246
Monica Macovei

Proposal for a regulation
Article 31 – paragraph 3

Text proposed by the Commission

3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it does not exceed the confiscated sum, shall accrue to the issuing State for the purposes of compensation or restitution of the victim. Any remaining property is to be disposed of in accordance with paragraph 2.

Amendment

3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it does not exceed the confiscated sum, shall accrue to the issuing State for the purposes of compensation or restitution of the victim. ***Each State insures the effectiveness of exercising the right to ask for compensation in cases where the Government or other officials were involved in the commission of the offence. The right to restitution should be exercised in the jurisdiction where the spoliated funds were transferred. If the authorities entitled to intervene as a civil party took advantage from the commission of the offence, the rights for restitution should be exercised in the name of the victims by a designated association or non-governmental organization.*** Any remaining property is to

be disposed of in accordance with paragraph 2.

Or. en

Amendment 247

Monica Macovei

Proposal for a regulation

Article 31 – paragraph 3

Text proposed by the Commission

3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it does not exceed the confiscated sum, shall accrue to the issuing State for the purposes of compensation or restitution of the victim. Any remaining property is to be disposed of in accordance with paragraph 2.

Amendment

3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it does not exceed the confiscated sum, shall accrue to the issuing State, *solely* for the purposes of compensation or restitution of the victim. Any remaining property is to be disposed of in accordance with paragraph 2.

Or. en

Amendment 248

Barbara Spinelli

Proposal for a regulation

Article 31 – paragraph 4 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Each Member State shall take the necessary measures, such as the establishment of national centralised offices or equivalent mechanisms, to ensure that property frozen with a view to possible later confiscation and property confiscated is properly managed. Such property shall be earmarked as a matter of priority for the compensation of victims, victims' families, and businesses which

are victims of organised crime and for projects of public interest and social utility for projects of public interest and social utility.

Or. en

Justification

The shadow rapporteur agrees with the rapporteur that: "It is important to promote in the Member States, the best possible management of frozen and confiscated property and its re-use for social purposes, for the compensation of victims, victims' families, and businesses which are victims of organised crime, or in order to combat organised crime."

Amendment 249
Barbara Spinelli

Proposal for a regulation
Article 31 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) Frozen property which is not subsequently confiscated shall be returned immediately. The conditions or procedural rules under which such property is returned shall be determined by national law.

Or. en

Amendment 250
Barbara Spinelli

Proposal for a regulation
Article 31 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) The property may be used for public interest or social purposes in the executing State in accordance with its laws, *subject to the agreement of the issuing State.*

(c) The property may be used for public interest or social purposes in the executing State in accordance with its laws.

Amendment 251
Salvatore Domenico Pogliese

Proposal for a regulation
Article 31 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Each Member State shall take the necessary measures, including the setting up of a national fund to guarantee appropriate compensation for the families of police officers and public servants killed in the line of duty and police officers and public servants permanently disabled in the line of duty. Each Member State shall earmark a portion of confiscated assets for this purpose.

Or. it

Amendment 252
Salvatore Domenico Pogliese

Proposal for a regulation
Article 31 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. The Member States shall transfer a portion of the proceeds from confiscated assets to the Union budget to provide funding for the work of Europol and the European Counter Terrorism Centre.

Or. it

Amendment 253
Salvatore Domenico Pogliese

Proposal for a regulation

Article 31 – paragraph 4 c (new)

Text proposed by the Commission

Amendment

4c. Each Member State shall take the necessary measures to establish a national centralised office responsible for managing confiscated assets and assets that have been frozen with a view to possible confiscation. Confiscated assets shall be earmarked primarily for local communities directly affected by the criminal activities of illicit organizations or acts of terrorism. These assets shall be in the public interest or for socially useful purposes in line with the legislation of the country concerned.

Or. it

Amendment 254

Salvatore Domenico Pogliese

Proposal for a regulation

Article 31 – paragraph 5

Text proposed by the Commission

Amendment

5. The issuing authority shall communicate the decision referred to in paragraph 3 and 4(d) to the executing authority. If a procedure to compensate or retribute the victim is pending in the issuing State, the executing State shall withhold the disposition of the confiscated property until the decision is communicated to the executing authority.

5. The issuing authority shall communicate the decision referred to in paragraph 3 and 4(d) to the executing authority **by any means capable of producing a written record**. If a procedure to compensate or retribute the victim is pending in the issuing State, the executing State shall withhold the disposition of the confiscated property until the decision is communicated to the executing authority.

Or. it

Amendment 255

Salvatore Domenico Pogliese

Proposal for a regulation
Article 32 – paragraph 2

Text proposed by the Commission

2. Where the executing State has had costs which it considers large or exceptional, the executing authority may propose to the issuing authority that the costs be shared. The issuing authority shall take into account such a proposal on the basis of detailed specifications given by the executing authority.

Amendment

2. Where the executing State has had costs which it considers large or exceptional, the executing authority may propose to the issuing authority that the costs be shared. The issuing authority shall take into account such a proposal on the basis of detailed specifications given by the executing authority ***and inform the executing authority of its conclusions by any means capable of producing a written record.***

Or. it

Amendment 256
Barbara Spinelli

Proposal for a regulation
Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32 a

Safeguards

1. Member States shall take the necessary measures to ensure that the persons affected by the measures provided for under this Regulation have the right to an effective remedy and a fair trial, in order to uphold their rights.

2. Member States shall provide for the effective possibility for the person whose property is affected to challenge the freezing order before a court, in accordance with procedures provided for in national law.

3. Member States shall ensure that the time-limits for seeking a legal remedy shall be the same as those provided for in similar domestic cases and are applied in away that guarantees the possibility of the

effective exercise of these legal remedies for the parties concerned.

4. Without prejudice to Directives 2012/13/EU and 2013/48/EU, persons whose property is affected by a confiscation order shall have the right of access to a lawyer throughout the confiscation proceedings relating to the determination of the proceeds and instrumentalities, in order to uphold their rights. The persons concerned shall be informed of that right.

5. In proceedings as referred to in paragraph 2, the affected person shall have an effective possibility to challenge the circumstances of the case, including specific facts and available evidence on the basis of which the property concerned is considered to be property that is derived from criminal conduct.

6. Third persons shall have the effective possibility to claim title of ownership or other property rights.

8. Where, as a result of a criminal offence, victims have claims against the person who is subject to a confiscation measure provided for under this Regulation, Member States shall take the necessary measures to ensure that the confiscation measure does not prevent those victims from seeking compensation for their claims.

9. The issuing authority and the executing authority shall inform each other about the legal remedies sought against the issuing, the recognition or the execution of a freezing or confiscation order.

Or. en

Justification

The shadow rapporteur agrees with the rapporteur that: "the provisions of this regulation should be brought into line with Directive 2014/42/EU and that the provisions on procedural rights and safeguards should be clarified and tightened up"

Amendment 257
Monica Macovei

Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Any interested party, including bona fide third parties, shall have legal remedies, including those provided for in Article 8 of Directive 2014/42/EU, against the recognition and execution of an order pursuant to Article 8 and 17, in order to preserve their rights. The legal remedy shall be brought before a court in the executing State in accordance with its national law. ***The action may have suspensive effect under the law of the executing State.***

Amendment

1. Any interested party, including bona fide third parties, shall have legal remedies, including those provided for in Article 8 of Directive 2014/42/EU, against the recognition and execution of an order pursuant to Article 8 and 17, in order to preserve their rights. The legal remedy ***against the recognition and the execution of a freezing/confiscation order*** shall be brought before a court in the executing State in accordance with its national law.

Or. en

Amendment 258
Barbara Spinelli

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. ***The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.***

Amendment

deleted

Or. en

Amendment 259
Monica Macovei

Proposal for a regulation

Article 33 – paragraph 2

Text proposed by the Commission

2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.

Amendment

2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State. ***Only the issuing State may determine applications for review of the confiscation order. The res judicate principle of final decision shall not be infringed neither in the issuing, nor in the executing State in cases where application for review of the confiscation order is granted.***

Or. en

Amendment 260

Eva Joly

Proposal for a regulation

Article 33 – paragraph 2

Text proposed by the Commission

2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.

Amendment

2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State, ***except in cases of an order issued without a final conviction within the framework of criminal proceedings.***

Or. en

Justification

Non-conviction based orders could run counter to the presumption of innocence, as it takes away property from citizens who have not been convicted of a criminal offence. The affected person should be able to bring an action in the executing state based on the substantive reasons for issuing the order if the order is not based on a prior conviction.

Amendment 261

Nuno Melo, Axel Voss

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.

Amendment

2. ***Without prejudice to the fundamental guarantees and rights in force in the executing Member State***, the substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.

Or. en

Justification

I support the amendment introduced by the rapporteur reproducing the text adopted in the Directive 2014/41/EU on the European Investigation Order in criminal matters ("EIO Directive"), for which I was the rapporteur. The referred directive reinforces the principle of mutual recognition of judicial decisions in the area of judicial cooperation in criminal matters, which should be used as a model for future mutual recognition instruments.

Amendment 262
Emilian Pavel, Birgit Sippel, Maria Grapini

Proposal for a regulation
Article 33 – paragraph 2

Text proposed by the Commission

2. The substantive reasons for issuing the freezing or confiscation order ***shall not*** be challenged ***before a court*** in the executing State.

Amendment

2. The substantive reasons for issuing the freezing or confiscation order ***may*** be challenged ***only in an action brought in the issuing State, without prejudice to the guarantees of fundamental rights*** in the executing State.

Or. en

Amendment 263
Monica Macovei

Proposal for a regulation

Article 33 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Against the substantive reasons for issuing the freezing or confiscation order disposed by Courts final decisions, an application for review shall be rejected as inadmissible.

Or. en

Amendment 264

Eva Joly

Proposal for a regulation

Article 35 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities. The statistics collected shall be sent to the Commission **each year** and shall include, in addition to those foreseen in Article 11(2) of Directive 2014/42/EU:

Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities **and from the central authority pursuant to Article 27(2)**. The statistics collected shall be sent to the Commission **every six months** and shall include, in addition to those foreseen in Article 11(2) of Directive 2014/42/EU:

Or. en

Amendment 265

Eva Joly

Proposal for a regulation

Article 35 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall submit an annual report to the European Parliament, the Council and the European Economic and Social Committee compiling statistics received and accompanied by a

comparative analysis.

Or. en

Amendment 266

Eva Joly

Proposal for a regulation

Article 38 – title

Text proposed by the Commission

Review clause

Amendment

Reporting and review clause

Or. en

Amendment 267

Eva Joly

Proposal for a regulation

Article 38 – paragraph 1

Text proposed by the Commission

By [***five*** years from the date of application of this Regulation] at the latest, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation. If necessary, the report shall be accompanied by proposals for adaptation of this Regulation.

Amendment

By [***three*** years from the date of application of this Regulation] at the latest, ***and every three years thereafter***, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation. ***The report shall include, among others, the following elements:***

(a) an overview of the statistics provided by Member States under Article 35; and

(b) an assessment of the possible impact of cross-border freezing and confiscation orders on fundamental rights and freedoms and the rule of law.

If necessary, the report shall be accompanied by proposals for adaptation of this Regulation.

Justification

The Commission should regularly report on the statistics and on the possible impact on fundamental rights, in order to present a review of this Regulation if necessary.

Amendment 268
Monica Macovei

Proposal for a regulation
Annex I – section 8 – point 3 – point

Text proposed by the Commission

- fraud and fraud related criminal offences as defined in Directive 2017/xxx/EU on the fight against fraud to the Union's financial interests by means of criminal law

Amendment

- fraud and fraud related criminal offences as defined in Directive 2017/xxx/EU on the fight against fraud to the Union's financial interests by means of criminal law, ***including tax fraud and tax evasion;***

Or. en

Amendment 269
Monica Macovei

Proposal for a regulation
Annex I – section 8 – point 3 – point

Text proposed by the Commission

- laundering of the proceeds of crime

Amendment

- laundering of the proceeds of crime, ***including self-laundering;***

Or. en

Amendment 270
Monica Macovei

Proposal for a regulation
Annex I – section 8 – point 3 – point

Text proposed by the Commission

- computer-related *crime*

Amendment

- cybercrime and all other*** computer-related *crimes*;

Or. en

Amendment 271

Eva Joly

Proposal for a regulation

Annex I – section 8 – point 3 a (new)

Text proposed by the Commission

Amendment

3a. *Is the offence for which the confiscation order is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least two years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)*

- tax fraud, aggravated tax fraud and tax evasion***;

Or. en

Amendment 272

Eva Joly

Proposal for a regulation

Annex I – section 13 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Where a central authority **has been made** responsible for **the administrative** transmission and reception of confiscation orders in **the issuing State**:

Central authority responsible for **assisting the competent authorities, logging all confiscation orders transmitted and received at the national level and streamlining the** transmission and reception of **the** confiscation orders in **accordance with Article 27(2)**:

Amendment 273

Eva Joly

Proposal for a regulation

Annex II – section 9 – point 3 a (new)

Text proposed by the Commission

Amendment

3a. Is the offence for which the freezing order is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least two years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)

tax fraud, aggravated tax fraud and tax evasion;

Or. en

Amendment 274

Eva Joly

Proposal for a regulation

Annex II – section 13 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Where a central authority *has been made* responsible for *the administrative* transmission and reception of freezing orders in *the issuing State*:

Central authority responsible for ***assisting the competent authorities, logging all freezing orders transmitted and received at the national level and streamlining the*** transmission and reception of ***the*** freezing orders in ***accordance with Article 27(2)***:

Or. en